

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUAN MIGUEL ELLINGBERG,

Defendant.

Case No: CR 12-0495 SBA

**ORDER ACCEPTING
AMENDED REPORT AND
RECOMMENDATION
REGARDING GUILTY PLEA**

Docket 632

On January 10, 2013, the Court referred this matter to Magistrate Judge Ryu ("the magistrate") for a report and recommendation on the acceptance of Defendant's guilty plea. Dkt. 450. On January, 11, 2013, the Court issued an amended order referring this matter to the magistrate for a report and recommendation on the acceptance of Defendant's guilty plea. Dkt. 451. On February 26, 2013, the Defendant appeared before the magistrate and, with the assistance of counsel, waived his right to enter a guilty plea before a district judge and instead consented to enter his plea in a hearing before the magistrate. See Dkt. 632. The magistrate conducted a full hearing in the manner set forth in Federal Rule of Criminal Procedure 11. Id. After the advisements set forth in Rule 11, the Defendant entered a guilty plea in open court. Specifically, the Defendant pled guilty pursuant to a written plea agreement to Count Fifteen of the Indictment charging Defendant with possession with intent to distribute and distribution of heroin within 1,000 feet of a school in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and 860. Id. The magistrate found that Defendant was fully competent and capable of entering an informed plea, that he was aware of the nature of the

1 charges and the consequences of the guilty plea, and that the guilty plea was knowing and
2 voluntary and supported by an independent factual basis. Id.

3 On February 26, 2013, the magistrate issued a Report and Recommendation
4 Regarding Guilty Plea. Dkt. 584. On April 30, 2013, the magistrate issued an Amended
5 Report and Recommendation Regarding Guilty Plea in which she recommends that this
6 Court accept Defendant's guilty plea. Dkt. 632. The Amended Report and
7 Recommendation advises the parties that they may serve and file specific written objections
8 to the order within fourteen days after being served with a copy of the order. Id. No
9 written objections to the Amended Report and Recommendation were filed prior to the
10 hearing. At the May 13, 2013 sentencing hearing in this matter, the parties indicated that
11 they have no objections to the Amended Report and Recommendation. Accordingly,

12 IT IS HEREBY ORDERED THAT the magistrate's Amended Report and
13 Recommendation (Dkt. 632) is ACCEPTED, the Defendant's guilty plea is accepted, and
14 the magistrate's Amended Report and Recommendation shall become the order of this
15 Court.

16 IT IS SO ORDERED.

17 Dated: 5/13/13

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19 SAUNDRA BROWN ARMSTRONG
20 United States District Judge
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